



Billing Code: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 101126590-1705-02]

RIN 0648-XZ59

Endangered and Threatened Species; Proposed Threatened Status for Subspecies of the Ringed Seal

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; 6-month extension of the deadline for a final listing determination.

SUMMARY: We, NMFS, announce a 6-month extension of the deadline for a final determination regarding the December 10, 2010, proposed rule to list four subspecies of the ringed seal (*Phoca hispida*) as threatened species under the Endangered Species Act of 1973, as amended (ESA). We are taking this action because there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the proposed listing rule. An additional 6 months will allow us to solicit additional data, evaluate and assess special independent peer review of the aspects of the status review report over which there is substantial disagreement, and better inform our final determination on the proposed listing rule.

DATES: We intend to reopen the public comment period to accept comment on the special independent peer review report when it becomes available. We will soon announce the dates of the new public comment period in the Federal Register. The final determination on this listing action will be made no later than June 10, 2012.

ADDRESSES: The proposed rule, status review report, and other materials relating to this proposal can be found on the Alaska Region web site at: <http://alaskafisheries.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: Tamara Olson, NMFS Alaska Region, (907) 271–5006; Kaja Brix, NMFS Alaska Region, (907) 586–7235; or Marta Nammack, Office of Protected Resources, Silver Spring, MD (301) 427–8469.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 2008, we initiated status reviews of ringed, bearded (Erignathus barbatus), and spotted seals (Phoca largha) under the ESA (73 FR 16617). On May 28, 2008, we received a petition from the Center for Biological Diversity to list these three species of seals as threatened or endangered under the ESA, primarily due to concerns about threats to their habitat from climate warming and loss of sea ice. The Petitioner also requested that critical habitat be designated for these species concurrent with listing under the ESA. In response to the petition, we published a 90-day finding that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted (73 FR 51615; September 4, 2008). Accordingly, we proceeded with the status reviews of ringed, bearded, and spotted seals and solicited information pertaining to them.

Following completion of a status review report and 12-month finding for spotted seals in October 2009 (74 FR 53683, October 20, 2009; see also, 75 FR 65239; October 22, 2010), we established Biological Review Teams (BRT) to prepare status review reports for ringed and bearded seals. The status review report of the ringed seal is a peer-reviewed compilation of the best scientific and commercial data available concerning the status of the species, including the past, present, and future threats to this species. After the status review report was completed by

the BRT (Kelly et al., 2010), on December 10, 2010, we made a 12-month finding and proposed to list the Arctic (Phoca hispida hispida), Baltic (Phoca hispida botnica), Okhotsk (Phoca hispida ochotensis), and Ladoga (Phoca hispida ladogensis) subspecies of ringed seals as threatened (75 FR 77476). We published our 12-month finding for bearded seals as a separate notification concurrently with this finding (75 FR 77496; December 10, 2010).

The proposed rule announced a 60-day comment period to close on February 8, 2011. On February 8, 2011, we extended the comment period 45 days to March 25, 2011 (76 FR 6754). Three public hearings were held in Alaska in Anchorage, Barrow, and Nome (76 FR 9733, February 22, 2011; 76 FR 14882, March 18, 2011).

In accordance with our July 1, 1994, Interagency Cooperative Policy on Peer Review (59 FR 34270), we requested the expert opinion of four independent scientists with expertise in seal biology and/or Arctic sea ice and climate change regarding the pertinent scientific data and assumptions concerning the biological and ecological information used in the proposed rule. The purpose of the review was to ensure that the best biological and commercial information was used in the decision-making process, including input of appropriate experts and specialists. We received comments from three of these reviewers.

Two of the reviewers questioned the magnitude and immediacy of the threats posed to Arctic ringed seals by the projected changes in sea ice habitat, in particular on-ice snow cover. Public comments raised similar concerns, including from the State of Alaska; certain Tribal governments, Alaska Native organizations, and organizations representing the Inuit in Canada; Canada's Department of Fisheries and Oceans; and Greenland's Department of Fisheries, Hunting, and Agriculture. We have considered these comments, and we find that for Arctic ringed seals substantial disagreement exists concerning the sufficiency or accuracy of the

analysis of model projections of future sea ice habitat, in particular on-ice snow cover, and related impacts. This disagreement extends to the magnitude and immediacy of the threats posed to this population by the projected habitat changes.

Extension of Final Listing Determination

The ESA, section 4(b)(6), requires that we take one of three actions within 1 year of a proposed listing: (1) finalize the proposed listing; (2) withdraw the proposed listing; or (3) extend the final determination by not more than 6 months, if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination, for the purposes of soliciting additional data.

In consideration of the disagreement related to the model projections and analysis of future sea ice habitat, in particular snow cover, for Arctic ringed seals, we are extending the timeline for the final determination by an additional 6 months (until June 10, 2012) to resolve the disagreement. We believe that the solicitation of additional data through special independent peer review of this aspect of the status review report will better inform our final determination on the proposed listing rule and will address the disagreement. We are therefore conducting this additional review in accordance with our Policy on Peer Review, and we will provide an opportunity for the public to comment on the peer review report. The additional 6 months will allow time for us to evaluate and assess the special independent peer review comments and make the peer review report available for comment. We do not anticipate that this additional time will appreciably impact any of the four subspecies of the ringed seal we proposed to list as threatened.

The reopening of the public comment period will be announced in the Federal Register when the availability of the peer review report compiling the special independent review

comments is known. At that time, instructions for obtaining a copy of the peer review report will also be announced.

Authority: 16 U.S.C. 1531 et seq.

Dated: December 6, 2011

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

[FR Doc. 2011-31969 Filed 12/12/2011 at 8:45 am; Publication Date: 12/13/2011]